

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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In re Application of)	MM Docket No. 93-94
)	
Scripps Howard)	File No. BRCT-910603KX
Broadcasting Company)	
)	
For Renewal of License of)	
Station WMAR-TV,)	
Baltimore, Maryland)	
)	
and)	
)	
Four Jacks)	File No. BPCT-910903KE
Broadcasting, Inc.)	
)	
For a Construction Permit for)	
a New Television Facility on)	
Channel 2 at Baltimore, Maryland)	
)	
To: The Honorable Richard L. Sippel		
Presiding Administrative Law Judge		

SCRIPPS HOWARD BROADCASTING COMPANY EXHIBIT 2

TESTIMONY OF ARNOLD J. KLEINER

Respectfully submitted,
Scripps Howard
Broadcasting Company

By: Kenneth C. Howard, Jr.
Leonard C. Greenebaum
David N. Roberts

Its Attorneys

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(202) 861-1500

Dated: September 13, 1993

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Docket No. <u>93-94</u>	Case No. <u>2</u>
Presented by <u>SCRIPPS HOWARD</u>	Received <u>10-5-93</u>
Disposition: Received <u>✓ 10-5-93</u>	Rejected _____
Reporter <u>ALICE WEHNER</u>	
Date <u>10-5-93</u>	

TABLE OF CONTENTS

<u>Background and Experience</u>	1
<u>Oversight of Station Policies and Programming</u>	5
<u>Acquisition of WMAR-TV by Scripps Howard Broadcasting Co.</u>	5
<u>Scripps Howard Management of WMAR-TV</u>	7
<u>Station Operation During the License Term</u>	10
<u>Ascertainment.</u>	10
<u>Community Advisory Board</u>	12
<u>Other Ascertainment Efforts.</u>	12
<u>Responsive Programming</u>	13
<u>Editorials</u>	14
<u>Contact 2</u>	15
<u>Response to Comparative Renewal Challenge</u>	16
<u>Compliance with FCC Rules</u>	18

TESTIMONY OF ARNOLD J. KLEINER

Background and Experience

1. My name is Arnold J. Kleiner. I reside at 6726 Cavite Court, San Diego, California 92120. I am President and General Manager of the KFMB Stations: KFMB-TV, AM, and FM ("KFMB"), San Diego, California, a position I have held since July 19, 1993. Prior to joining KFMB, I was General Manager of WMAR-TV, Baltimore, Maryland for twelve years. I served in this capacity for Scripps Howard Broadcasting Company ("Scripps Howard") from May 30, 1991 to July 16, 1993, and from June 13, 1991 until July 16, 1993, I was a Vice President of Scripps Howard. From October 1986 through May 30, 1991, I was President of Gillett Broadcasting of Maryland, Inc. ("Gillett"), then the licensee of WMAR-TV. Prior to that I served as General Manager of WMAR-TV from September 1, 1981 for A.S. Abell Corp. During my tenure as the station's General Manager, the FCC twice renewed the license of WMAR-TV--in 1981 and 1986.

2. I have been working full-time in broadcasting for twenty-five years. Prior to working at WMAR-TV, I was Director of Sales of WPVI-TV, Philadelphia, Pennsylvania from 1978-1981. From 1975-1978, I was the General Sales Manager of WJZ-TV, Baltimore, Maryland, and from 1974-1975, I was Sales Manager of Television Advertising Representatives ("TVAR") (now Group W Television Sales), New York, New York. From 1972-1974, I was Sales Manager for WBZ-TV in Boston,

Massachusetts. Prior to joining WBZ-TV, I was an Account Executive for TVAR, Chicago, Illinois from 1971-1972; for WJZ-TV, Baltimore, Maryland from 1969-1971; and for KDKA Radio, Pittsburgh, Pennsylvania from 1968-1969.

3. As General Manager of WMAR-TV, I was responsible for the overall day-to-day and long-term management of the television station, including but not limited to all aspects of station sales, programming, engineering, news, production, promotion, public relations, and financial operations.

4. In accordance with my position as General Manager, I supervised all employees of WMAR-TV either directly or indirectly. Specifically, during the "License Term" at issue in this comparative renewal hearing, May 30, 1991-September 30, 1991, as well as during the "Renewal Period" specified by the Presiding Judge, May 30, 1991 - September 3, 1991, I directly supervised Emily Barr, Director of Broadcast Operations; Bob Feldman, News Director; Howard Zeiden, General Sales Manager (who resigned in August 1991); Robert Imhoff, Controller; Joseph Bruno, Chief Engineer; and Nancy Schachnovsky, Director of Human Resources.

5. While at WMAR-TV, including throughout the License Term, I resided in the Baltimore area and was heavily involved in many aspects of the greater Baltimore community. From 1982-1993, I was a member of the Steering Committee of the Johns Hopkins Children's Center, a member of the Falls Road Community Association, and a Member of Temple Oheb Shalom. I also was a member of the Board of Governors of Goodwill

Industries from 1983-1986, and a member of the Baltimore Jewish Council from 1984-1990, where I served on the Board of Directors and the Executive Committee. From 1990-1992, I was Senior Co-Chair of the National Conference of Christians & Jews, Maryland Chapter.

6. From 1985-1993, I was a member of the Advisory Board for the William Donald Schaefer Center for Public Policy, and from 1987-1993 I was a Trustee of the Baltimore Council on Foreign Affairs.

7. From 1988-1993, I was a member of the Board of Directors of Baltimore Reads, an adult literacy program, and a Trustee of the College of Notre Dame of Maryland. In 1989, I created and was Chairman of The Phantom Ball to benefit Baltimore Reads. In 1992 and 1993, I was Co-Chair of Bowling for Scholars, a benefit for the Learning Bank, an adult literacy organization, and a Committee Member of Take The O Train, a benefit for the Children's Guild, a school for emotionally disturbed children. From 1986-1987, I was a member of the Maryland Alliance for Drug-Free Youth, and I was a United Way (Commercial Division) Team Captain in 1989 and 1990. I was a Director of The Greater Baltimore Committee, an organization of chief executive officers dedicated to enhancing the Baltimore area business climate, from 1989-1993, and served as Chairman of the Education Committee, President of the Chamber Division, and Secretary during that time.

8. From 1988-1993, I was a member of the Lifesongs for AIDS Committee, an annual event to benefit HERO, a Baltimore community AIDS awareness organization, and in 1993, I was Honorary Chairman of Empty Bowls, a benefit for the Maryland Food Committee. In addition, from 1991-1993 I was a member of the Board of Directors of the Alvin Ailey Dance Troupe, and from 1992-1993, I was a Trustee of the Baltimore Museum of Art.

9. During my tenure at WMAR-TV, my involvement and interest in the community served by WMAR-TV led to a number of awards from community organizations. In 1982, I received Baltimore's Best, an award from the Mayor of Baltimore recognizing community activism. In 1985, I received the Victorine Q. Adams Humanitarian Award for my leadership and involvement in promoting the Fuel Fund of Central Maryland. In 1986, I received a Community Achievement Award from ORT (Organization for Rehabilitation through Training), which raises funds for and manages vocational and technical schools throughout the world. I also received the Governor's Salute to Excellence in 1988, and the Maryland Food Committee Partners Award in 1989.

10. In addition to my general community involvement, I also was involved in a number of professional organizations in Baltimore, and nationally. From 1981-1993, I served as a Director of the Maryland/DC/Delaware Broadcasters Association, as a Director of the Advertising Association of Baltimore, and as a Director of the Advertising and Professional Club of

Baltimore. From 1992-1993, I was a member of the NBC Affiliate Board and Chairman of the News Committee.

11. Based on my observations as a member of these organizations and on my professional experience, I am familiar with the ordinary and customary practices in the television broadcast industry.

Oversight of Station Policies and Programming

12. My oversight of station policies and practices was exercised throughout the License Term as follows. Although I was responsible for all aspects of station sales, programming, engineering, news, production, promotion, public relations, and financial operations as General Manager of WMAR-TV, I often delegated specific responsibilities and tasks to my professional management staff. When I delegated responsibility over a specific issue or area to a member of my staff, I was kept informed of significant developments and decisions by weekly department head meetings and through my informal discussions with individual managers that usually occurred on a daily basis. I maintained "veto power" over all decisions that were made under delegated authority. I took a particularly active role in supervising the news department, and I generally met with the News Director or other news managers several times per day.

Acquisition of WMAR-TV by Scripps Howard Broadcasting Co.

13. Prior to the closing of Scripps Howard's purchase of WMAR-TV on May 30, 1991, I had numerous contacts with Richard Janssen, former president of Scripps Howard (who

retired in 1992) and with other Scripps Howard corporate management. I first met with Mr. Janssen about WMAR-TV becoming part of Scripps Howard just before Thanksgiving in 1989. Between that meeting and the conclusion of the purchase, I spoke to Mr. Janssen over 50 times. Our conversations always focused on WMAR-TV.

14. Mr. Janssen's questions during these meetings regularly included inquiries regarding the business affairs of WMAR-TV, what the station would need if the purchase were made, and the quality of the managers then employed at WMAR-TV. As part of describing the station's operations, I advised Mr. Janssen of my own management philosophy, including describing the ascertainment procedures described herein that I had initiated at WMAR-TV during my ten years as General Manager (e.g., the Community Advisory Board) and my experience in ensuring that responsive programming was then broadcast.

15. In addition to my conversations with Mr. Janssen, I also spoke repeatedly prior to the acquisition with Scripps Howard corporate vice-presidents Terry Schroeder and Ken Lowe about the station and its programming.

16. While I do not recall the exact date, either prior to or immediately following the closing of the acquisition, Donald P. Zeifang, Scripps Howard's FCC counsel, visited WMAR-TV.

17. When Scripps Howard decided to purchase WMAR-TV, I was informed that, with my consent, the company also planned to acquire my employment contract from Gillett. This

contract, with modifications, set out my rights and responsibilities as General Manager through December 31, 1992. Scripps Howard was under no obligation to acquire my contract with the station.

18. During my experience as a General Manager, I have been involved in several station acquisitions. Scripps Howard's probing of the practices, policies, and management of WMAR-TV prior to its purchase was intense and detailed; indeed, it was much more intense and detailed than has occurred in any other station acquisition in which I have participated. Scripps Howard's corporate management took extensive steps to determine precisely what the company was acquiring.

Scripps Howard Management of WMAR-TV

19. Prior to consummation of the purchase, I received memoranda from Scripps Howard describing the company's policies and practices in a wide range of areas. I also learned about the company's policies through my discussions with Scripps Howard corporate management, discussed above.

20. After the acquisition, as Scripps Howard's General Manager and as a corporate officer after June 13, 1991, I exercised control over the station as a local representative of the new owner. During the License Term, all management decisions, including programming decisions, were ongoing decisions. That the stations' programming continued largely as it had in the past was a conscious decision made by me in consultation with Scripps Howard's corporate office managers.

I assessed every program offered on the station from the new context that the station had changed ownership. With two exceptions, there was neither an immediate nor a gradual shift in the amounts or types of programming offered over the station because--applying my new perspective as a Scripps Howard employee and officer to the ongoing task of programming Station WMAR-TV--I saw that no change was necessary or appropriate.

21. The most significant change that was effected was not the result of a change in my programming philosophy, but was a result of the station's new ability to take advantage of the financial resources offered by Scripps Howard's ownership. After May 30, 1991, the station promptly began taking steps to add one hour per weekday of locally produced news. This change, which I had contemplated before the Scripps Howard purchase but had lacked the resources to accomplish, was planned with and approved by Scripps Howard's corporate management during the Renewal Period and was accomplished during the License Term. At my request, Emily Barr collected materials documenting the management decision-making process concerning this expansion and has offered them as Attachment B to her testimony.

22. The second change was that it is Scripps Howard's corporate policy not to accept paid religious programs. Accordingly, these programs were phased out of the station's schedule.

23. Scripps Howard's corporate management encouraged the regular review of the station's programming to determine if it was responsive to community needs and interests. As a practical matter, no program could have been broadcast on WMAR-TV during the License Term without the approval and financial support of Scripps Howard's corporate office. Even if the program had been planned, produced, and scheduled prior to Scripps Howard's purchase of the station, a negative decision from the company's President could have killed the program. During my regular contacts with Scripps Howard's corporate management throughout the License Term, however, I received continuing support and strong encouragement for WMAR-TV's public affairs and news programming efforts.

24. An example of Scripps Howard's support for improved program service by the station that occurred during the Renewal Period is evidenced by the memoranda regarding substantial equipment purchases that Scripps Howard approved during the License Term. See Attachment O to Emily Barr's Testimony. These equipment purchases, which included an expensive library management system and two new live electronic news gathering vans, were planned to and did assist the station in addressing community needs and interests through a more efficient operation and better news gathering capability.

25. Prior to and during the Renewal Period, Mr. Janssen and Mr. Schroeder both visited the station on several occasions. Although I do not recall the specific dates or

details of our discussions, I do know that both individuals encouraged us in these meetings to continue producing quality, issues responsive programming. A memorandum from Ken Lowe addressing, among other things, the need for continuous attention to producing high quality news programming is another example documenting Scripps Howard corporate management's dedication to assisting the station's efforts to serve the community through leadership in news programming. A copy of this memorandum is attached as Attachment E to Terry Schroeder's testimony.

26. In addition to regular communication and visits during the License Term, corporate management directed WMAR-TV to begin complying with certain Scripps Howard operating policies applicable to all its stations. These changes principally related to reporting requirements. Attachment F to Terry Schroeder's testimony is a copy of a memorandum I received during the License Term describing these reports. WMAR-TV was given time, however, to adapt to these new reporting requirements. In addition, Richard Janssen instructed me to join the Baltimore Broadcasters Coalition, which conducts joint ascertainment efforts, and the station did so during the Renewal Period.

Station Operation During the License Term
Ascertainment

27. During the License Term, WMAR-TV both continued intact the ascertainment efforts that had been ongoing prior to the purchase and relied upon the experience the WMAR-TV

management staff had attained from its ascertainment efforts during the operation of the station under its prior owner. In particular, I continued my interviews with a wide range of community leaders and members of the general public. My personal efforts are documented in ¶¶ 23, 28-30, 32, 33, 35, 36, 38 and Attachment E to the Testimony of Emily Barr, all of which I have reviewed and determined to be accurate to the extent that they describe and record ascertainment efforts and contacts attributed to me. I also continued to direct WMAR-TV personnel to get out into the community and talk to leaders and individual citizens, based on my belief that if we did not get out of the building, we could not know what was going on in the community.

28. I also supervised the ascertainment efforts of other station personnel who conducted regular interviews both directly and indirectly. These individuals included Emily Barr, Director of Operations; Janet Covington, Director of Public Affairs; Maria Velleggia, Director of Public Relations; Bob Feldmen, News Director; Willy Walker, Executive Producer; and Harry Kakel, Production Manager.

29. Typically, I learned about the station's employees' ascertainment interviews either at the weekly department head meetings, at informal luncheon meetings of these department heads and other managers that I often conducted in my office, and through my very frequent contacts with Emily Barr, whose office adjoined mine throughout the License Term. The participants in the department head meetings were myself;

Emily Barr, Director of Operations; Bob Feldman, News Director; Joe Bruno, Engineering Director; Bob Imhoff, Controller; Nancy Schachnovsky, Human Resources Director; Howard Zeiden, Director of Sales and Marketing; Kathleen Baylies, Director of Creative Services; and Maria Velleggia, Public Relations Director. The monthly reports that I received from each department head also sometimes discussed ascertained issues and responsive programming.

Community Advisory Board

30. Another way by which I ascertained community needs was through the Community Advisory Board ("Board"). The Board is composed of individuals who are leaders in various groups and organizations in the community. I established the WMAR-TV Board when I arrived at the station in 1981 based on my successful experience with such a board at the Philadelphia station at which I worked prior to joining WMAR-TV.

31. Members of the Board rotate, depending on their availability and positions in the community. During the License Term, to the best of my recollection, the Board consisted of the individuals listed in Attachment G to Emily Barr's testimony. Although the Board existed during the License Term, no formal meetings were held during that time due to scheduling difficulties.

Other Ascertainment Efforts

32. In addition to my other ascertainment efforts during the Renewal Period, I continued my previous practice of reading The Baltimore Sun (a daily newspaper), Baltimore

Business Journal (a weekly), and Baltimore Magazine (a monthly). I also regularly read Towson Times (a weekly), The Jeffersonian (a weekly), and The Baltimore Jewish Times (a weekly). In addition, I occasionally read newsletters from various community organizations that were circulated to me by Emily Barr and others, and I reviewed newspaper and periodical articles regarding the station that were provided by WMAR-TV's clipping service.

33. Ascertainment during the Renewal Period also consisted of reviewing and evaluating community feedback to previous WMAR-TV programming. I obtained community feedback through ascertainment interviews, through reviewing news articles written about WMAR-TV, through "Telepoll," a viewer call-in portion of WMAR-TV's morning news program, and through letters to the station from the public--some of which forcefully challenged and criticized our programming priorities and decisions.

34. Separately, my long involvement in the community affairs of Baltimore listed above and my long experience in conducting ascertainment in Baltimore helped me to evaluate the intensity of the varied interests of the community competing for attention on WMAR-TV and to offer responsive programming as discussed below.

Responsive Programming

35. As General Manager during the License Term, I oversaw all programming on WMAR-TV and took special interest in news programming. I made sure that the news reports that

were broadcast on WMAR-TV during that time period offered reports that were responsive to the ascertained needs and interests of the community. Often, a particular news report, program, or series was broadcast because the underlying issue had been identified as one of interest to the community during our department head or other meetings in which I participated. The news coverage of educational developments identified in the summary of local news stories included as part of Attachment J to Emily Barr's Testimony, for example, directly flowed from management's ascertainment contacts and management discussions about those contacts. I discussed the need for such programming with the news department based upon my own experience and ascertainment efforts and upon others' reports to me based on their ascertainment efforts that the issue was one of substantial interest and concern to the community.

36. For non-news programming, I relied in large part during the License Term on Emily Barr's direct oversight of the station's public affairs and community service programming. With my participation and support, Ms. Barr also played a major role in ensuring that ascertained issues were known by the news department personnel so that they could make programming decisions with these issues in mind. Ms. Barr's performance in tying ascertained issues to responsive station programming was a factor I used in evaluating her performance.

Editorials

37. As General Manager of WMAR-TV, during the License Term I delivered an editorial once a week as part of the

regular program schedule. Each editorial was broadcast four times. The topic and position taken in each editorial was determined by an Editorial Board consisting of myself; Ms. Barr, the Director of Operations; Janet Covington, the Public Affairs Director; Maria Velleggia, the Public Relations Director; the News Director and another representative from the News Department; and a representative from the Human Resources and Sales Departments. The process by which the Editorial Board functioned and made decisions is accurately described in ¶ 67 of the Testimony of Emily Barr.

Contact 2

38. WMAR-TV's consumer affairs service, Contact 2, was established well over a year before the License Term began to assist consumers with individual problems. This service both helps the affected individual and, in some cases, serves to alert our viewers to scams and frauds occurring in the community. Its existence also may serve as a deterrent to service suppliers who see others' abusive practices publicized on Contact 2. Consumers who need assistance call Contact 2, and the volunteers who staff the Contact 2 offices obtain information from the caller and attempt to assist them. Each week, three Contact 2 stories and their results were reported during WMAR-TV's regular news programs. This process was followed during the License Term.

39. WMAR-TV assigned one full-time producer to Contact 2 and one employee to assist the producer, part-time. During the license term, the producer was Cindy Scott-Hilbert and the

assistant was Brigid McKew. WMAR-TV anchorwoman Beverly Burke was the on-air personality who reported the Contact 2 cases.

40. Contact 2 is part of the news department at WMAR-TV. During the License Term, I delegated responsibility for the day-to-day management of the Contact 2 program to Cindy Scott-Hilbert and to Bob Feldman, the News Director. Mr. Feldman was directly supervised by me.

41. Beginning on July 16, 1991, I also received a report of each Contact 2 story prior to its broadcast. I requested this report so that I could ensure that the Contact 2 segment of the news did not become repetitive.

42. In the regular course of business the Contact 2 staff kept records of the inquiries received and cases handled during the License Term. Prior to my resignation from WMAR-TV, I delegated the task of gathering and synthesizing those records for this proceeding to Emily Barr. Attachment L to Emily Barr's testimony is the result of that request.

Response to Comparative Renewal Challenge

43. WMAR-TV did not revise its programming or practices during the License Term in anticipation of a renewal challenge. For example, Hits for the Homeless, Lifesongs, and Paddle for People--WMAR-TV sponsored events to benefit local charities--had been taking place for many years prior to the license renewal challenge. WMAR-TV's regularly scheduled public affairs programs, "2 the Point" and "Front Page," likewise began airing long before the Renewal Period. WMAR-TV's production and carriage of the telethons for Johns

Hopkins Children's Center and for the Muscular Dystrophy Association had been offered for years. WMAR-TV had maintained its Annapolis office to respond to the community's consistent need for information about state government affairs and legislation since before I joined the station, and it had dedicated a full-time reporter to address the ascertained concerns about the environment since about 1986.

44. The major programming change that was implemented during the License Term likewise was not done in response to any concern about a comparative challenge. The decision to expand WMAR-TV's morning news broadcast from one-half hour to an hour and a half was made well in advance of September 3, 1991. Had it not been, the staffing, set planning and the myriad other decisions associated with this project could not have been implemented in time to meet the September 16, 1991 inauguration of this change. The materials gathered by Emily Barr and attached to her testimony at Attachment B document these decisions. At no time was the effect of a potential or actual comparative challenge to the station's license ever mentioned or considered in connection with this decision.

45. After I learned of the Four Jacks Broadcasting, Inc. application (I do not recall this date but it was some time after September 3, 1991), I thought that some staff members at WMAR-TV might be concerned about the possible impact of the comparative challenge on the station's future. Accordingly, I instructed all WMAR-TV personnel that there would be no change in station practices as a result of this filing.

46. In sum, during the Renewal Period and prior to my receiving notice of the challenge, I did not alter or amend any of the station's public affairs, news, or other programming in anticipation of a renewal challenge being filed, nor was I instructed to do so by any individual at corporate headquarters for Scripps Howard. To the best of my knowledge, with the exception of airing a notice required by the Commission's rules about this upcoming hearing, no change in the station's public affairs, news or other programming occurred either before or after September 3, 1991 where concern about the effects of a comparative challenge to the station's license played any role in the decision.

Compliance with FCC Rules

47. To the best of my knowledge, WMAR-TV was in full compliance with all FCC rules and policies during the License Term. No FCC citations or admonishments were received either during or in connection with station activities during this time. As of this date, I am aware of no adverse FCC actions in connection with WMAR-TV's operations since the License Term.

DECLARATION

I, Arnold J. Kleiner, President and General Manager of KFMB (AM) \-FM\TV, San Diego, California and former Vice-President of Scripps Howard Broadcasting Company and General Manager of WMAR-TV, Baltimore, Maryland, do hereby declare, under penalty of perjury, that I have reviewed Scripps Howard Broadcasting Company Exhibit 2 and the Attachments thereto, that those documents comprise my testimony in this proceeding, and that the statements contained therein are true and correct to the best of my knowledge. Executed this 13th day of September, 1993.

Respectfully submitted,

By: Arnold J. Kleiner
Arnold J. Kleiner

Certificate of Service

I, Diane Wright, a secretary in the law offices of Baker & Hostetler, hereby certify that I have caused copies of the foregoing "Scripps Howard Broadcasting Company Exhibit 2, Testimony of Arnold J. Kleiner" to be hand-delivered this 13th day of September, 1993 to the following:

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